

John Berrigan
Director-General
DG FISMA
European Commission
Rue de Spa 2, 1000
Brussels, Belgium

Brussels, 16 December 2021

Dear Mr Berrigan,

We write to you on behalf of the Sustainable Finance Task Force of the American Chamber of Commerce to the European Union (AmCham EU). This Task Force brings together banks, financial intermediaries and industry to engage with EU policy makers on the challenge of tackling the energy and climate transition.

AmCham EU member companies are committed to playing our part in driving forward the European Green Deal, and we recognize the key role that the EU Taxonomy has in helping to achieve this. Establishing a disclosure framework that enhances the availability, reliability and comparability of sustainability-related information will provide a strong foundation for progress towards the transition. We value the EU's leadership in catalysing action towards 2050 climate neutrality.

In this context, Task Force members have identified several questions regarding the Sustainable Finance Disclosure Regulation (SFDR) and Taxonomy frameworks. Clarifying these items would facilitate a timely and coherent implementation process ahead of the approaching deadlines.

We would appreciate further details over the following aspects:

- **Implementation expectations for Level-2 disclosures rules under SFDR:** We welcome the recent postponement of the application of the Regulatory Technical Standards (RTS) to 01 January 2023, and we urge the swift adoption of the RTS to provide final clarity for the industry and to allow sufficient preparation time. Adherence to the January 2023 deadline is contingent on documentation approval processes and national competent authority (NCA) registration. This process needs to start in Q3 2022 in order to allow sufficient time for completion, and any further delay will challenge our ability to meet key publication deadlines.
- **Implementation expectations for SFDR-product disclosure against the Taxonomy climate change adaptation and mitigation criteria:** We strongly urge for clarity on the implementation of the Taxonomy-related disclosures ahead of the upcoming 01 Jan 2022 deadline. Sufficient time needs to be allowed for both the preparers and the users of this information to provide accurate and comprehensive disclosure. We would also welcome further details on the sequencing of the implementation between the SFDR and Taxonomy-related disclosure, as well as the forthcoming measures concerning suitability assessment under the Markets in Financial Instruments Directive (MiFID) (the former being a pre-requisite to enable compliance with the latter).
- **Disclosure of Taxonomy-aligned Capital Expenditures / Operational Expenditures (CapEx / OpEx) under Article 8 of the Taxonomy:** We would welcome clarification concerning the extent to which non-financial undertakings can recognise the purchase of outputs of other activities that are Taxonomy-aligned within their own CapEx/OpEx. The purchase of environmentally sustainable energy is a specific example. In this context, we would also welcome further details as to the inclusion or otherwise of upstream or downstream operations in the supply chain within a non-financial undertaking's determination of eligible economic activities to be disclosed. It is our understanding that reporting on the eligibility of activities through CapEx, OpEx and turnover, as well as the related qualitative

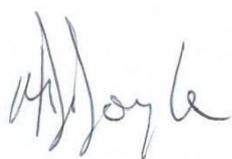
information for the climate change adaptation and mitigation objectives, is required for the financial year starting in 2021, not prior to this date.

- **Application of Nomenclature of Economic Activities (NACE) codes for the assessment of Taxonomy-eligible and Taxonomy-aligned activities:** We would appreciate a confirmation that the use of up-to-date NACE codes is an accurate means to identify Taxonomy-eligible activities and does not require further assessment against the specific technical screening criteria. This is particularly applicable in the case of activity 9.2; research, development and innovation for direct air capture of carbon dioxide, which could be associated with several NACE codes.
- **Application date for the audit of Article 8 Taxonomy-related disclosure:** We would welcome a confirmation that assurance requirements for Taxonomy-related disclosure remain subject to Member State discretion until 2023. We understand that following the application of the CSRD, the assurance of Taxonomy-related disclosure under Article 8 would then become mandatory across all Member States.

On behalf of the Task Force's membership, we thank you in advance for any clarification you may be able to provide pertaining to the above and we would welcome the opportunity to further discuss.

We look forward to continue our dialogue with you on these important issues in the coming months and we remain at your disposal for any support that we can provide.

Yours sincerely,



David Henry Doyle

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